

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2528 OF 2015**

Pramod @ Babalu Dnyaneshwar Kanade	...Applicant
Versus	
The State of Maharashtra	...Respondent

Mr. V. S. Kotwal i/b Mr. V. B. Shivarkar for the Applicant

Mr. J. H. Ramugade, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
MONDAY, 18th APRIL, 2016

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.

2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 98 of 2015 registered with the Shikrapur Police Station, Pune, for the alleged offences punishable under Sections 302 and 364 of the Indian Penal Code.

3. The incident has taken place in the intervening night of 2nd and 3rd April, 2015, the FIR is lodged on 3rd April, 2015 at 8:30 a.m. and the

applicant was arrested on the very same day at 7:10 p.m. According to the complainant - Mithileshkumar Ahirwar, there was an altercation between the applicant and the deceased on 19th March, 2015. It is alleged that in the said incident of 19th March, 2015, the applicant had threatened the deceased of eliminating him within eight days. According to the complainant, on 3rd April, 2015, when he along with the deceased and other roommates were sleeping in the room, the present applicant came to the room at about 2:40 a.m - 3:00 a.m and asked the deceased to accompany him. According to the complainant, the deceased did not return back home and on the next day, his body was found on a kaccha road in a forest.

4. Learned Counsel for the applicant submitted that the prosecution case rests entirely on the circumstantial evidence. He submitted that if according to the prosecution, the applicant had taken the deceased at about 2:40 a.m., and thereafter the applicant had gone to the Shikhrapur Police Station at about 5:15 a.m. and disclosed to the police that he had murdered the deceased, there was no reason, for the police to arrest the applicant on 3rd April, 2015 at 7:10 p.m. He submitted that there is recovery of an iron rod at the instance of the applicant, however, it is

unbelievable that the said iron rod which was found was broken in two pieces due to the assault.

5. Learned A.P.P opposed the bail application.

6. Perused the papers. On a perusal of the statement of the complainant and other roommates, who are also witnesses in the said case, it appears that the deceased was last seen in the company of the applicant. It appears that the applicant had taken the deceased at 2:40 a.m. and thereafter, the deceased died between the period i.e. 3:00 a.m. and 6:00 a.m. The statement of H. P. Gadekar which is at page 42 of the application shows that at 5:15 a.m, the applicant had visited the Police Station and disclosed the said fact, pursuant to which, the dead body was found. It appears that a blood stained iron rod has been recovered at the instance of the applicant. Motive is also disclosed in the statement of the complainant and other witnesses, who had seen the quarrel and the threat given by the applicant to the deceased. The FIR has been lodged promptly. Only because there is a delay in arresting the applicant, cannot be a ground to enlarge the applicant on bail.

7. Considering the material on record, this is not a fit case to enlarge the applicant on bail. Hence, the application is rejected.

8. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

REVATI MOHITE DERE, J.